

DOCKET NO. P05167 (FORMERLY P5118US00)
U.S. SERIAL NO. 09/867,429
PATENT

REMARKS

Claims 1-69 were pending in this application.

Claims 1-69 have been rejected.

Claims 1, 35, 53, and 69 have been amended as shown above.

Claims 1-69 remain pending in this application.

Reconsideration and full allowance of Claims 1-69 are respectfully requested.

I. REJECTION UNDER 35 U.S.C. § 103

The Office Action rejects Claims 1-10, 12-14, 17-20, 24-38, 40, 44, 45, 47-57, 60, 61, and 64-69 under 35 U.S.C. § 103 as being unpatentable over U.S. Patent No. 6,379,058 to Petteruti et al. ("*Petteruti*") in view of Mettala, "Bluetooth Protocol Architecture" ("*Mettala*"). The Office Action rejects Claims 11 and 39 under 35 U.S.C. § 103 as being unpatentable over *Petteruti* and *Mettala* in view of U.S. Patent No. 5,129,639 to Dehority ("*Dehority*"). The Office Action rejects Claims 15, 16, 41-43, 58, and 59 under 35 U.S.C. § 103 as being unpatentable over *Petteruti* and *Mettala* in view of U.S. Patent No. 5,682,379 to Mahany et al. ("*Mahany*"). The Office Action rejects Claims 21-23, 46, 62, and 63 under 35 U.S.C. § 103 as being unpatentable over *Petteruti* and *Mettala* in view of U.S. Patent No. 6,163,538 to Brown et al. ("*Brown*"). These rejections are respectfully traversed.

In *ex parte* examination of patent applications, the Patent Office bears the burden of establishing a *prima facie* case of obviousness. (*MPEP* § 2142; *In re Fritch*, 972 F.2d 1260, 1262, 23 U.S.P.Q.2d 1780, 1783 (Fed. Cir. 1992)). The initial burden of establishing a *prima*

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PATENT

facie basis to deny patentability to a claimed invention is always upon the Patent Office. (MPEP § 2142; *In re Oetiker*, 977 F.2d 1443, 1445, 24 U.S.P.Q.2d 1443, 1444 (Fed. Cir. 1992); *In re Piasecki*, 745 F.2d 1468, 1472, 223 U.S.P.Q. 785, 788 (Fed. Cir. 1984)). Only when a *prima facie* case of obviousness is established does the burden shift to the Applicant to produce evidence of nonobviousness. (MPEP § 2142; *In re Oetiker*, 977 F.2d 1443, 1445, 24 U.S.P.Q.2d 1443, 1444 (Fed. Cir. 1992); *In re Rijckaert*, 9 F.3d 1531, 1532, 28 U.S.P.Q.2d 1955, 1956 (Fed. Cir. 1993)). If the Patent Office does not produce a *prima facie* case of unpatentability, then without more the Applicant is entitled to grant of a patent. (*In re Oetiker*, 977 F.2d 1443, 1445, 24 U.S.P.Q.2d 1443, 1444 (Fed. Cir. 1992); *In re Grabiak*, 769 F.2d 729, 733, 226 U.S.P.Q. 870, 873 (Fed. Cir. 1985)).

A *prima facie* case of obviousness is established when the teachings of the prior art itself suggest the claimed subject matter to a person of ordinary skill in the art. (*In re Bell*, 991 F.2d 781, 783, 26 U.S.P.Q.2d 1529, 1531 (Fed. Cir. 1993)). To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed invention and the reasonable expectation of success must both be found in the prior art, and not based on the Applicant's disclosure. (MPEP § 2142).

DOCKET NO. P05167 (FORMERLY P5118US00)
U.S. SERIAL NO. 09/867,429
PATENT

Petteruti recites a system for RF communications between a host and a printer using RF signal transmissions. (*Abstract*). The host can identify a printer using different techniques, such as optically scanning a bar code on the printer, receiving an identification of the printer in an RF signal, or allowing a user to manually type an identification of the printer. (*Col. 5, Lines 45 – Col. 6, Line 1*). The host then sends a wake up packet to the printer, and the printer responds with a ready packet. (*Col. 6, Lines 10-20*). After that, the host sends a force link packet to the printer, and the printer responds with an accept link packet. (*Col. 6, Lines 20-23*). This initializes a link between the host and the printer, and the host may transmit data to the printer for printing in data packets. (*Col. 6, Lines 43-48*).

Claims 1, 35, 53, and 69 have been amended to recite that a “connection between [a] printer client and [a] printer server is closed” when certain elements fail to communicate and/or receive one or more “keep alive messages.”

The Office Action asserts that *Petteruti* recites the use of “expected responses” or “reply packets” and that there is “no difference” between “keep alive messages,” “expected responses,” and “reply packets.” (*Office Action, Page 15, First paragraph*). However, *Petteruti* fails to disclose, teach, or suggest that a “connection between [a] printer client and [a] printer server is closed” when the “expected responses” or “reply packets” are not communicated and/or received.

Instead, one portion of *Petteruti* recites that a “host” may retry sending a packet because the host “did not receive an expected response from the printer.” (*Col. 7, Lines 24-27*). This simply indicates that the lack of an “expected response” results in the retransmission of a packet.

-24-

DOCKET NO. P05167 (FORMERLY P5118US00)
U.S. SERIAL NO. 09/867,429
PATENT

Nothing here indicates that a "connection between [a] printer client and [a] printer server is closed" when the "expected response" is not communicated and/or received.

Another portion of *Petteruti* recites that a host takes control of a channel for an entire "transaction" (transmitting a packet and receiving a reply packet) and that a device receiving the packet transmits the reply packet immediately. (*Col. 10, Lines 41-49*). Again, nothing here indicates that a "connection between [a] printer client and [a] printer server is closed" when the "reply packet" is not communicated and/or received.

In addition, the Office Action cites column 11, lines 15-16 of *Petteruti*. (*Office Action, Page 15, First paragraph*). The cited portion of *Petteruti* lacks any mention that a "connection between [a] printer client and [a] printer server is closed" when certain elements fail to communicate and/or receive one or more "keep alive messages." Instead, the cited portion of *Petteruti* simply refers to the fact that a collision occurs if multiple hosts attempt to transmit at the same time, and the hosts may either retry the transmissions or wait for a random amount of time (referred to as a "random backoff period"). (*Col. 11, Lines 9-17; Col. 10, Lines 28-40*). Nothing here indicates that the transmission retries or random backoff periods of *Petteruti* represent a "connection between [a] printer client and [a] printer server [being] closed" when certain elements fail to communicate and/or receive one or more "keep alive messages."

Mettala is cited by the Office Action only as allegedly disclosing the use of a "Bluetooth protocol stack including a Link Control and Adaptation Protocol (L2CAP) that allows an asynchronous connection-less (ACL) connection." (*Office Action, Page 3, Last paragraph* -

DOCKET NO. P05167 (FORMERLY P5118US00)
U.S. SERIAL NO. 09/867,429
PATENT

Page 4, First paragraph). *Mettala* is not cited by the Office Action as disclosing, teaching, or suggesting any other elements of Claims 1, 35, 53, and 69, including the elements noted above.

As a result, the Office Action has not established that the proposed *Petteruti-Mettala* combination discloses, teaches, or suggests all elements of Claims 1, 35, 53, and 69. For these reasons, the Office Action has not established a *prima facie* case of obviousness against Claims 1, 35, 53, and 69 (and their dependent claims). Accordingly, the Applicant respectfully requests withdrawal of the § 103 rejection and full allowance of Claims 1-69.

II. CONCLUSION

The Applicant respectfully asserts that all pending claims in this application are in condition for allowance and respectfully requests full allowance of the claims.

DOCKET NO. P05167 (FORMERLY P5118US00)
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SUMMARY

If any outstanding issues remain, or if the Examiner has any further suggestions for expediting allowance of this application, the Applicant respectfully invites the Examiner to contact the undersigned at the telephone number indicated below or at wmunck@davismunck.com.

The Commissioner is hereby authorized to charge any additional fees connected with this communication (including any extension of time fee) or credit any overpayment to Davis Munck Deposit Account No. 50-0208.

Respectfully submitted,

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